Supreme Court, U.S.
FILED

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NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1997

NAOMI TREECE

Petitioner

VS.

LYONS TOWNSHIP HIGH SCHOOL
AND
INSURANCE COMPANY OF NORTH AMERICA

Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO
SUPREME COURT OF ILLINOIS

PETITION FOR WRIT OF CERTIORARI

Naomi Treece
5300 Walnut Avenue, Suite 14B
Downers Grove, ILL 60515
630-852-9942

Pro se of Record

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156 pp

QUESTIONS PRESENTED

Petitioner is 58 years of age and a totally disabled worker, injured November 17, 1980, subsisting on Social Security disability benefits from March 12, 1985 to the present time. Dr. John Mullan, Neurosurgeon, Chairman of the Division of Neurosurgery at the University of Chicago Hospital and Clinics diagnosed permanent organic brain damage.

Arbitrator Gilberto M. Galicia and Insurance Company of North America's Lawyers subjected petitioner to dilatory processes, repeated egregious, heinous frauds on the courts so pervasive as to vitiate all orders up to this point as a total lack of due process of law so that petitioner should be granted relief.

1. Was the due process of law clause of the Fourteenth Amendment to the United States Constitution violated by the numerous (25), egregious, intentional misrepresentations of facts by Insurance Company of North America counsel so as to be so pervasive as to void all court and arbitrator decisions requiring the Illinois Supreme Court to remand to assure justice to petitioner, a totally disabled worker?

2. Was it a denial of due process of law and abuse of discretion for the Supreme Court of Illinois to fail to have issued its supervisory order to correct heinous frauds perpetrated upon the courts by insurer's counsel so pervasive as to violate the 14th Amendment to the U.S. Constitution?

3. Was petitioner denied due process of law when Arbitrator Barbara Sherman, having heard the testimony and observed the demeanor of all witnesses, did not write her decision before she was elevated to a Commissioner?

4. Was petitioner denied due process of law when insurer's lawyers made a ninety-five thousand dollar ($95,000) offer of settlement, had it accepted by petitioner and her counsel, and then rescinded by contract of settlement when the newly assigned arbitrator (to replace Barbara Sherman) turned out to be insurer's

counsel's fellow graduate from De Paul University and, to remove any doubt, he literally jumped up and down with joy at the news and immediately and unilaterally withdrew said contract dishonestly, dishonorably and fraudulently?

5. Was petitioner denied due process of law and is the Industrial Commission of Illinois guilty of obstruction of justice in withholding 146 pages of the record, to the detriment of the petitioner and to justice itself, constituting fundamental error so as to combine with insurer's counsel's frauds on the courts (and arbitrators) so pervasive as to result in denial of constitutionally guaranteed due process of law for petitioner?

6. Was petitioner denied due process of law when arbitrator Gilberto M. Galicia never presided over any of the arbitration proceedings, never observed or heard any of the witnesses testimony, wholly omitted the 146 pages of the record in which he used to arrive at his decision.

7. Was petitioner denied due process of law wherein Commissioner's Richard Gilgis and Douglas Holland affirmed Arbitrator Galicia's faulty decision in their Decision and Opinion on review dated October 20, 1987 which was vacated and remanded by Judge White on April 17, 1989 and on remand decided by the same Commissioner Richard Gilgis, et al, on January 31, 1990 that; (1) petitioner was totally disabled from the work injury for life and awarded all benefits, (2) the insurer was guilty of vexatious delay and imposed penalties and attorney's fees accordingly.

8. Was petitioner denied due process of law wherein based upon the twenty-five (25) frauds on the court made by the insurer's lawyers in their briefs and repeated to the Appellate Court of Illinois, led the court into error and into affirming the much earlier (and wrong) decision of the Commissioner's Decision and Opinion on review dated October 20, 1987 which even the Commissioner's changed as stated above on 1/31/90.

9. The Supreme Court of Illinois let the Appellate Court of Illinois Order 1-91-1365 W.C. stand and in its refusal of a Motion for Supervisory Order and Motion for Reconsideration thereof on September 11, 1997, said frauds being so pervasive as to result in denial of constitutionally guaranteed due process of law for petitioner.

10. Did the eleven (11) incorrect statements in the Appellate Court of Illinois Order 1-91-1365 W.C. skew the judicial process and deny due process of law to the petitioner.

11. Was petitioner denied due process of law when Patrick J. McKenna, Counsel for Insurance Company of North America wrote ten grievous fraudulent statements of misrepresentations in his Motion for Summary Judgment and submitted it to the Circuit Court of Cook County Illinois on March 26, 1997, Case No. 93L 8878.

12. Who, if not you in the Supreme Court of the United States will stand up to Insurance Company of North America's Lawyers, Arbitrator Gilberto M. Galicia, Commissioner's Richard Gilgis, Douglas Holland and say to these officer's of the Court.

> "It's against the law to become a blatant liar in the Decision's Brief's and argument before the Courts and Industrial Commission of Illinois and hold them accountable for professional misconduct." Thus denying petitioner due process of law.

13. Will no one in the Supreme Court of the United States stand up to The Industrial Commission of Illinois and say, "It's against the Laws, and obstruction of Justice" to withhold evidence from Naomi Treece's Worker's Compensation Case 81W.C.595 or any injured worker, and hold The Industrial Commission of Illinois accountable for misconduct. Thus denying Naomi Treece due process of law.

LIST OF PARTIES

Naomi Treece	Petitioner
Lyons Township High School	Respondent
Insurance Company of North America AKA Cigna Companies	Respondent

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ON PETITION FOR A WRIT OF CERTIORARI TO
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PETITION FOR WRIT OF CERTIORARI

Petitioner, Naomi Treece, respectfully prays for a writ of certiorari to review the judgments of the Court of Appeal of Illinois.

OPINIONS BELOW

The decision of the Supreme Court of Illinois denying Naomi Treece's motion for Supervisory Order is not reported and is reprinted in Appendix B The Opinion of the Court of Appeal, Appellate Court of Illinois, First District Industrial Commission Division is not Reported and is reprinted as Appendix D.

APPENDIX A: Motion For Reconsideration, Supreme Court of Illinois, Springfield, Illinois, September 11, 1997, is reprinted in Appendix ..... A

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JURISDICTION

The Court of Appeal, after sixteen years of litigation, Petitioner filed, "Naomi Treece's Motion for Supervisory Order" on July 15, 1997 in the Supreme Court of Illinois, which is the court of last resort and which had discretionary authority to review the case. The court denied the motion for Supervisory Order on August 11, 1997. Petitioner filed a Motion for Reconsideration and the court denied that on September 11, 1997. This petition is timely filed within ninety days of that denial. The jurisdiction of this court is invoked pursuant to 28 U.S.C. § 1257.

CONSTITUTIONAL PROVISIONS INVOLVED

Article IV, Section 1 of the United States Constitution provides in pertinent part:

> *Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.*

The Fifth Amendment to the United States Constitution provides in pertinent part:

> *No person shall be . . . . . deprived of life, liberty or property without due process of law...*

Section 1 of the Fourteenth Amendment to the United States Constitution provides in pertinent part:

> *No state shall enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law. . .*

STATEMENT OF THE CASE

This case chronicles BROKEN JUSTICE. Due process of law (procedural 14th Amendment to the United States Constitution guarantees everyone "fundamental fairness and substantial justice", according to the established rules and laws of the court.

Vaughn v. State, 3 Tenn. Crim. Appl 54, 456, S.W. 2d 879, 883.

I WAS NOT AFFORDED THAT BASIC RIGHT.

Unless this Honorable Supreme Court of the United States exercises its authority and issues the requested petition for a Writ of Certiorari, an erroneous Appellate Court of Illinois Order No. 1-91-1365 W.C. will continue to stand. Containing 11 incorrect statements.

The Appellate Court of Illinois abuse of discretion and error of a prejudicial nature has caused great harm to me and the Judicial system as a whole.

I have had my rightful benefits, including medical care and credibility taken from me, thus being forced to live like a parasite.

The respondent's lawyers perpetrated a fraud upon the court by not following the Supreme Court of Illinois rules, a subject that was urged to the Appellate Court of Illinois and can be shown to be the major factor for the Appellate Court of Illinois errors and "Dirty Hands".

Because officers of the Court, and the Court itself, either perpetrated a fraud upon the court or knew of the fraud perpetrated upon the court, but did nothing to correct this legal abuse, and did not hold the respondents accountable as is required by the judicial code of conduct, nor did the, 1) Circuit Court of Cook County, Illinois; 2) Industrial Commission of Illinois; or 3) Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois - give any direction to the Appellate Court of Illinois as

to the Respondent's misconduct denying the court the Truth and necessary knowledge needed to make a fair and proper decision, thus denying me due process of law.

Justice can only be accomplished when everyone, including officers of the court and the court itself are held accountable for their own conduct according to the Rules, Laws of Illinois, and the United States constitution.

Learning to live with a severe disability is very difficult. I know, because my disability has changed my life forever.

It is undisputed that I sustained a work related injury on November 17, 1980.

Dr. John Mullan, Neurosurgeon, Chairman of Division of Neurosurgery at the University of Chicago Hospitals diagnosed permanent organic brain damage causally related to the workplace injury.

The respondent's lawyers stipulated into the record:

> *"Respondent's doctor Vincent Sackett opinion, Naomi Treece is suffering from a disability which is causally related to the workplace injury".*

My attorney, Mr. David Wittenberg, told me the Appellate Court of Illinois had ruled against me and that I could not take my case to a higher court, because the Appellate Court of Illinois judges would not give me a certificate of importance.

I asked my attorney, *Am I not important enough to have the certificate of importance. Is my case not important to the judicial courts. Don't I have and deserve all the rights of everyone else?*

Does the Appellate Court of Illinois think I'll just go somewhere to a dark corner, cry for a while, and just accept what they have done by going away.

My attorney told me there is nothing more he could do. I could not do anything except thank him for twelve years hard work. I thought my Worker's Compensation litigation was over - - - How wrong I was!

The Sheriff served me with a summons. One of my doctors filed a lawsuit against me for non-payment of medical bills. The respondent refused to pay for necessary medical treatment and they got away with it.

On July 22, 1993, the Sheriff served me with another summons. Insurance Company of North America filed a lawsuit seeking $43,313.32 for alleged overpayments of temporary total disability compensation payments to me, and attorney fees arising out of my Worker's Compensation claim.

The Respondent did not pay for <u>any medical bills</u>, but they wanted me to pay them! I borrowed some money, retained a new lawyer and was now in the Circuit Court of Cook County, Illinois as a defendant. I went to Court on the Court dates, but my attorney did not show up in Court some of the court dates. Insurance Company of North America's lawyer, <u>Patrick J. McKenna</u> was having his way each time we went before the Judge, and I could see me loosing once again to the powerful Insurance Company of North America.

About three years after Insurance Company of North America filed their lawsuit, we went to mandatory arbitration on October 22, 1996, the arbitrator's ruling stated:

> *"We enter the award in favor" of the defendant, Naomi Treece and against the plaintiff Insurance Company of North America.*

Insurance Company of North America elected to continue the fraudulent litigation.

On March 26, 1997, Counsel Patrick J. McKenna filed his Motion for Summary Judgement in the Circuit Court of Cook County Illinois.

Counsel, Patrick J. McKenna wrote ten clear, heinous, fraudulent, misrepresentations of the facts in my Worker's Compensation case, perpetrating pure criminal deception upon the court. Counsel Patrick J. McKenna states:

> *"Insurance Company of North America" had been voluntarily paying T.T.D. benefits all along in order to avoid any risk of future statutory penalties.*

I requested Insurance Company of North America produce the canceled checks as proof to counsel Patrick J. McKenna's statement in his Motion for Summary Judgment.

Patrick J. McKenna has not produced any canceled checks to this date. The lies in the Respondent's Motion for Summary Judgement continues 16 years later.

My daughter and two grand children visited me and found me trying to figure out what really happened during the twelve years of my Worker's Compensation litigation.

The Appellate Court of Illinois court records cost $450.00 to reproduce.

The Christmas presents the children had given me were returned to raise the money for the court records. That was hard for me to do.

On January 29, 1997, the court records were reproduced for me, my family and I set out to research my Worker's Compensation case.

The magnitude of twelve years litigation was very hard for us all.

The records reveals: *"THE DIRTY HANDS".*

Respondent's lawyer, Joseph A. Garofalo and Arbitrator Gilbert M. Galicia were law school classmates. Both lawyers graduated from DePaul University, Chicago, Illinois with a J.D. degree in 1977.

Respondent's lawyer, Joseph A. Garofalo, rescinded the offer to settle the case the moment arbitrator Gilberto M. Galicia was reassigned to my case No. 81 W.C. 595, (I accepted the settlement offer before it was rescinded).

The Industrial Commission of Illinois withheld 146 (one hundred forty-six) pages of evidence from the record in which Arbitrator Gilberto M. Galicia used to arrive at his decision, Case No. 81 W.C. 595, obstructing justice and depriving me due process of law.

- The treating neurosurgeon Dr. John Mullan's deposition taken April 2, 1985 was not in the record.

- Arbitrator Barbara Sherman's Arbitration hearing, February 25, 1985 in which Dr. David Garron testified was not in the record.

Arbitrator Gilberto M. Galicia never presided over any of the arbitration proceedings and wrote his decision from the faulty record provided to him by the Industrial Commission of Illinois, omitting 146 pages of evidence.

Three Judicial Courts wrote in their Decisions and Order, *"Arbitrator Gilberto M. Galicia was prejudicial to (Naomi Treece), Petitioner.*

Commissioners Douglas Holland and Richard Gilgis, officers of the court wrote the Decision and Opinion on Review dated October 20, 1987. Three of the five paragraphs in that decision contain heinous, fraudulent, misrepresentations of the facts in my Worker's

Compensation case. The Commissioners wrote with criminal deception:

- Dr. Mullan, petitioners treating physician released her to return to work on November 11, 1982. (Respondent used this fraudulent statement in their brief and argument many times).

Respondent's agent, Ruth Owen's report, dated December 2, 1982 states: *"As recommended I attended Mrs. Treece's visit with Dr. Mullan on November 11, 1982. As Dr. Mullan would give me no indication concerning a date of return to work for Mrs. Treece, I feel an independent medical examination is necessary and project a date for release to return to work."*

As we were leaving Dr. Mullan's office, Ruth Owens took the prescriptions from me that Dr. Mullan had prescribed for my treatment. She refused to return them to me.

Dr. Mullan's deposition dated April 2, 1985 stated, I think it's quite important that she take the Delantin because the electrical activity shows a potential for developing epilepsy. The respondent's agent deprived me of medication for pain and treatment prescribed by my own doctor. That was Respondent's rehabilitation efforts.

The rehabilitation efforts were designed to help the respondent, not to help me. There was never any treatment by the respondent's doctors, they offered only their expert opinions of my condition in court as a witness for respondent.

Insurance Company of North America refused to provide or pay for reasonable and necessary medical treatment, and the Respondent's got away with it.

The respondent ceased its payments of temporary total disability as of April 10, 1983 and continued heinous, fraudulent litigation for nine more years. Then filed a lawsuit against me.

The respondent's lawyers have perpetrated frauds with criminal deception and heinous misrepresentations of the facts upon the courts and Industrial Commission of Illinois that have skewed the results of my Worker's Compensation Case No. 81 W.C. 595 and resulted in a denial of due process of law for me.

The bulk of twenty-five (25) fraudulent misrepresentations in respondent's lawyers Brief and Argument submitted to the Appellate Court of Illinois and their audacity in perpetrating them upon the courts led the Appellate Court of Illinois into fundamental error stating eleven incorrect statements in their order, Case No. 1-91-136 W.C. These invidious, egregious repeated frauds upon the court came right out of respondent's Brief and Argument submitted to the Appellate Court of Illinois.

Insurance Company of North America had dumped their responsibilities on the tax payers of America.

I was awarded total disability social security benefits on March 12, 1985 to present time.

The last Decision and Opinion on Remand dated January 31, 1990 from the Industrial Commission of Illinois granted me permanent total disability for life.

The last two decisions from the Circuit Court of Cook County Illinois dated, February 21, 1991 and March 25, 1991 granted me permanent total disability for life.

The Appellate Court of Illinois ignored all three of these decisions.

Because of the Industrial Commission's expertise in the area of Worker's Compensation, its findings on the question of the nature and extent of permanent disability should be given substantial deference, *English v. Industrial Commission* (1986) 151 Ill. App. 3d. 682, 502 N.E 2d 1247. The first statement and the cited case in the same paragraph states: "It is presumed that the Industrial Commission considers competent and proper evidence in reaching

its decision. *Glover v. Industrial Commission (3rd District) (1985) 140 Ill. App. 3d 361, 92 Ill. Dec. 794, 485. N.E. 2d. 605.* The Appellate Court did not get competent and proper evidence from the respondent's lawyers. Arbitrator, Gilberto M. Galicia, or Industrial Commission of Illinois.

Don't the rule of professional conduct and judicial code of conduct stand for anything?

I respectfully state that I never freely gave up my constitutional rights by filing a Worker's Compensation claim, but that is certainly what took place in case No. 81 W.C. 595 before Industrial Commission of Illinois.

Until a person becomes a disabled victim in the cesspool of injustice called the Illinois Worker's Compensation system, no one can imagine the injustices, indignities, cruelties and lack of medical treatment or care a disabled worker must endure, and the damages that occur to the judicial system.

It is very lonely and frightening to have discovered/and uncovered what appears to be "business as usual" - a legally corrupt Worker's Compensation system that functions on deal making and the "Good old Boy's Club" rather than on the Truth.

As a parting shot at me, about November 16, 1983, respondent's agent, Gary Goldetsky, told me to go to public aid for medical help, Insurance Company of North America will not help you in any way and then he laughed.

I pray that the Honorable Supreme Court of the United States does not find anyone's Worker's Compensation case a laughing matter.

I pray the Honorable Supreme Court of the United States will grant my petition for Writ of Certiorari.

No. 1-91-1365WC

IN THE APPELLATE COURT OF ILLINOIS

FIRST DISTRICT,
INDUSTRIAL COMMISSION DIVISION

Lyons Township High School,	)	Appeal from the
	)	Circuit Court of Cook
Respondent-Appellant,	)	County, Illinois
	)	
v.	)	Nos. 87-L-51221 and
	)	90-L-50184
The Industrial Commission,	)	
et al. (Naomi Treece,	)	
Petitioner)	)	Honorable Alexander
	)	Alexander White
Appellees.	)	Judge, Presiding

ORDER

INCORRECT STATEMENT OF THE ORDER

The Respondent presented to the Appellate Court of Illinois, First District, Industrial Commission, Division.

Brief and Argument - Received August 13, 1991 by: Philip G. Brinkerhoff of Counsel.

Respondent's Brief states: (Page 1) - Incorrect Statement

1. Treece had three (3) arbitration hearings before the Illinois Industrial Commission with respect to her right to receive Worker's Compensation benefits from the Respondent.

The Appellate Court of Illinois states in their Order of May 15, 1992:

Treece had three (3) arbitration hearings.
This is a clear fraudulent statement.

Record Reveals:

Naomi Treece had eleven (11) hearings before the Industrial Commission of Illinois. Naomi Treece had five (5) proceedings before the Circuit Court of Cook County, Illinois.
The record reveals:

CASE HISTORY

Industrial Commission of Illinois

Date	Court Record Number	Arbitrators
1. 02/09/81	C000333 thru C000414	Adolphus Green
2. 02/18/81	C000415 thru C000419	Adolphus Green
3. 09/08/81	C000420 thru C000464	Adolphus Green
4. 11/13/81	C000465 thru C000536	Adolphus Green
5. 02/25/85	C000537 thru C000686	Barbara Sherman
6. 02/25/85	C000965 thru C001054	Barbara Sherman
7. 04/09/85	C000687 thru C000796	Barbara Sherman
8. 05/29/85	C000798 thru C000875	Barbara Sherman
9. 6/25/86	C001147 thru C001151	Gilberto M. Galicia
10. 12/11/86	C000876 thru C000964	Alvin R. Cooke
11. 10/20/87	C001213 thru C001214	Richard Gilgis Douglas Holland
12. 01/31/90	C001164 thru C001173	Ted Black Richard Gilgis Berry Ketter

PLEASE NOTE: Arbitrator Gilberto M. Galicia never presided over any of the arbitration hearings, and wrote his decision from the record ONLY with 146 pages of evidence missing!

2. *PAGE ONE (1) - INCORRECT STATEMENT*

The first two arbitration hearings were before Arbitrator Adolphus Green.

The record reveals:
Arbitrator Green presided over four (4) arbitration hearings. Case No. 81 WC 595.

1.	02/09/81	C000333 thru C000414	Adolphus Green
2.	02/18/81	C000415 thru C000419	Adolphus Green
3.	9/08/81	C000420 thru C000464	Adolphus Green
4.	11/13/81	C000465 thru C000536	Adolphus Green

3. *PAGE ONE (1) - INCORRECT STATEMENT*

The third hearing was before Arbitrator Barbara Sherman.

The record reveals: C000420 through C000464

Third hearing date, September 8, 1981 - Arbitrator Adolphus Green presiding.

Four years, four months after the third hearing, Arbitrator Barbara Sherman presided over Case No. 81 WC 595, for the first time on February 25, 1985.

Arbitrator Barbara Sherman did not preside over the third hearing before the Industrial Commission of Illinois. She was not present at all.

4. *PAGE ONE (1) - INCORRECT STATEMENT*

However, the record was transferred to Arbitrator Gilberto M. Galicia for a written decision following Arbitrator Sherman's elevation to Commissioner.

The record reveals: C000906 thru C000962 and C000965 thru C001054

The Industrial Commission of Illinois failed to include the following evidence for Arbitrator Galicia to write his decision:

a. The deposition of the treating physician, Neurosurgeon and Chairman of the Division of Neurosurgery at the University of Chicago Hospitals and Clinics, dated April 2, 1985.

b. The hearing before Arbitrator Sherman dated February 25, 1985 before the Industrial Commission of Illinois in which Dr. David Garron testified.

c. A total of one hundred and forty six (146) pages of evidence was not in the record in which Arbitrator Galicia used to arrive at his decision dated June 25, 1986, Case No. 81 WC 595.
Arbitrator Gilberto M. Galicia wrote only one decision.

5. *PAGE FOUR (4) - INCORRECT STATEMENT*

In Dr. Mullan's opinion, both the post-concussive syndrome and the epileptic manifestations were compatible with a relatively mild head injury.

The record reveals: Cooo506 and C000507
Cross Examination by Respondent's Counsel, Mr. Gifford:

Mr. Gifford	Q:	When you say organic, you mean....what do you mean by that:
Dr. Mullan .	A:	Physical damage to the brain.
Mr. Gifford	Q:	Have you found any evidence of that?
Dr. Mullan .	A:	Yes
Mr. Gifford	Q:	And that's the EEG?
Dr. Mullan .	A:	The history is the evidence.
Mr. Gifford	Q:	Isn't it difficult for you to correlate your medical findings with her complaints?
Dr. Mullan .	A:	No. That's typical with 30 years of experience. It's a straight forward problem, not at all.

6. *PAGE FOUR (4) - INCORRECT STATEMENT*

A second application for adjustment of claim was filed and a hearing on that application was held on November 13, 1981.

The Record Reveals: C000415 thru C000419
The second hearing was February 18, 1981, Arbitrator Adolphus Green presiding.

7. *PAGE FOUR (4) - INCORRECT STATEMENT*

Dr. Mullan referred Treece to psychologist Mary T. Weed. The results of the tests did not indicate organic brain damage (physical damage).
The Record Reveals: C000429

by Mr. Wittenberg:

Mr. Wittenberg . Q: The organic brain damage should be determine by Dr. Mullan.

Mary T. Weed . . A: Except the tests are good at suggesting the presence, only the medical doctor can make the diagnosis. The words physical damage do not appear in the record.

8. *PAGE SIX (6) - INCORRECT STATEMENT*

Dr. Garron did not have an opinion as to whether her condition had an organic component or whether her work-related accident had caused the psychiatric condition. He could not definitely state the cause of her condition.

The Record Reveals: C001034 and C001035

By Mr. Wittenberg:

Mr. Wittenberg: . Q: Do you have an opinion based upon a reasonable degree of psychological certainty,

whether the condition you have seen her for and diagnosed on three occasions might or could have been caused or aggravated by the head injury of November 11, 1980 and/or the treatment that she received subsequent to that injury.

Mr. Garofalo . . . A: Object. That was asked and answered.
The Arbitrator Overruled. He did not complete his answer. Is it complications from the medication.
Dr. Garron . . . . A: Yes.
Mr. Wittenberg . Q: What is your opinion?
Dr. Garron . . . . A: It is at least possible that her condition is a consequence of the blow to the head.

9. *PAGE NINE (9) - INCORRECT STATEMENT*

Although Arbitrator Sherman presided over the presentation of evidence in the third hearing, the record was transferred to Arbitrator M. Galicia for a written decision due to Arbitrator Sherman's elevation to Commissioner.

The Record Reveals: C000537 thru C000686

Date was February 25, 1985. Three years and four months after the third hearing, Arbitrator Barbara Sherman presided over the first Arbitration proceedings of Case No. 81 WC 595.

Arbitrator Sherman did not preside over the presentation of evidence in the third hearing. She was not present at the third arbitration proceedings.

10. *PAGE FOURTEEN (14) - INCORRECT STATEMENT*

We note that at the third hearing, Dr. Glen Glista indicated that Treece's present condition was unrelated to her condition.

The Record Reveals: C000420 thru C000464

The third hearing date was September 8, 1981. Three years after the third arbitration hearing, Dr. Glen Glista examined Naomi Treece on September 13, 1984. He examined her one time.

Dr. Glista did not know Naomi Treece or had ever met her at the time of the third arbitration hearing.

Dr. Glista was not present at the third hearing. He did not indicate anything at the third hearing. He was not there.

11. PAGE NINE (9) - INCORRECT STATEMENT

> *We note that this testimony of Dr. Garron was erroneously not included in the record provided to Arbitrator Galicia.*

The Record Reveals: C000965 thru C001054
C000906 thru C000964

The Court failed to state that:

a. The deposition of the treating physician, Dr. John Mullan, neurosurgeon at the University of Chicago Hospital and Clinics, dated April 2, 1985 as not in the record.

b. The arbitration proceedings dated February 25, 1985 in which Dr. David Garron testified was not in the record.

c. A total of one hundred forty-six (146) pages of evidence was not in the record in which Arbitrator Gilberto M. Galicia used to arrive at his decision dated June 25, 1986.

THIS IS NOT DUE PROCESS OF THE LAW! The cumulative frauds perpetrated by the Respondents upon the Courts is violative of the provisions of the Fourteenth Amendment to the U.S. Constitution and analogues in the Illinois Constitution.

REASON'S FOR GRANTING THE WRIT OF CERTIORARI

A uniform federal standard is necessary to uphold "the full faith and credit" and due process public policies.

Federal substantive law requires that an arbitration award be vacated if its enforcement is contrary to public policy.

Brown v. Rauscher Pierce Refines, Inc., 994, 2d, 775, 778 (11th Cir. 1993)

Cohen v. Wedbush, Noble, Cook, Inc., 841 F. 2d 282, 285 (9th Cir. 1988)

Furthermore, as a matter of federal substantive law, an arbitral award must be set aside when it manifestly disregards the law.

George Day Construction Co. v. United Brotherhood of Teamsters, 722 F. 2d. 1471 (9th Cir. 1984)

An arbitration award will be vacated where the rights of the party were substantially prejudiced by misconduct of a neutral arbitrator. (Code Civ. Proc. § 1286.2 Subd. ©

My rights were substantially prejudiced by misconduct of arbitrator Gilberto M. Galicia, Industrial Commission of Illinois; and Respondent's lawyers.

Arbitrator Gilberto M. Galicia's misconduct:

1. Arbitrator Galicia abused the use of authority and power to uphold what is right or lawful.

2. Arbitrator Galicia never conducted any of the arbitration proceedings, observed any of the witnesses or Naomi Treece.

3. The transcripts actually prepared and submitted to Arbitrator Galicia at the request of the Industrial Commission of Illinois failed to include:

a. The treating neurosurgeon and chairman of Division of Neurosurgery at the University of Chicago Hospitals and Clinics. Dr. John Mullan's deposition taken April 2, 1985 was not in the record.

b. The arbitration proceeding conducted by arbitrator Barbara Sherman on February 25, 1985 in which Dr. David Garron, PhD testified was not in the record.

c. The Industrial Commission of Illinois obstructed justice and denied Naomi Treece due process of law when they withheld evidence from the record in which Arbitrator Galicia used to arrive at his decision - Case No. 81 W.C. 595, dated June 25, 1986.

4. Arbitrator Galicia wrote a decision that ignored Arbitrator Adolphus Green's two prior (19b) decisions that granted me temporary total disability.

5. He went back into the record of the two prior proceedings before Arbitrator Green and used much of the evidence contained therein with which he attempted to retry an already adjudicated decision.

6. The Appellate Court of Illinois Order states: Case No. 1-91-1365 W.C.:

The Court determines that Arbitrator Galicia erred in reviewing the prior record compiled before Arbitrator Green. By so doing the finding of Arbitrator Galicia in respect to causal relation was prejudicial to petitioner.

7. Industrial Commission of Illinois states in their Decision and Opinion on remand dated January 31, 1991 that, *Arbitrator Gilberto M. Galicia was prejudicial to petitioner - Case No. 81 W.C. 595.*

8. Circuit Court of Cook County Illinois Memorandum Decision and Judgment dated March 25, 1991, Case No. 87 L 51221 states: *Arbitrator Gilberto M. Galicia was prejudicial to petitioner (Naomi Treece).*

9. The Appellate Court of Illinois First District, Industrial Commission Division No. 1-91-1365WC states: *Arbitrator Gilberto M. Galicia was prejudicial to petitioner (Naomi Treece.*

10. Arbitrator Gilberto M. Galicia did not award any necessary medical or hospital benefits to me in his decision of June 25, 1986. (None of my medical bills were paid by respondent). And the Respondent got away with it.

11. Arbitrator Gilberto M. Galicia wrote thirteen (13) heinous, fraudulent, misrepresentations of the facts with criminal deception in his decision of June 25, 1986.

12. There's no doubt about it, Arbitrator Gilberto M. Galicia was prejudicial to petitioner (Naomi Treece).

> Indemnifying a tortfeasor for punitive damages or for its intentional misconduct and its fraud clearly contravene the laws and public policies of the state in which the misconduct occurred, as of the time of arbitration, in (Illinois).

13. Commissioners Richard Gilgis and Douglas Holland wrote the Decision and Opinion on Review dated October 20, 1987, Case No. 81 W.C. 595.

> a. Three of the five paragraphs in that decision contained heinous fraudulent misrepresentations of the facts that came right out of Arbitrator Gilberto M. Galicia's decision.
>
> b. Three years later Commissioner Richard Gilgis reversed his own decision and granted me permanent total disability.

14. *a. Arbitrator Gilberto M. Galicia's decision dated June 25, 1986, Case No. 81 W.C. 595.*

b. Commissioners Richard Gilgis and Douglas Holland's Decision and Opinion on review dated October 20, 1987, Case No. 81 W.C. 595.

c. These two decisions contain numerous, fraudulent misrepresentations of the facts with criminal deception.

d. Out of these two faulty decisions arises sixteen (16) years of litigation causing me great harm and hardship.

e. The Decision and Opinion on Review dated October 20, 1987 was vacated for five years until the Appellate Court of Illinois reinstated it. (a faulty decision and opinion)

As a Federal Court reaffirmed in Stratton Group, Ltd. v. Spray Regan, 466 F. Supp. 1180, 1185 N.4 (S.D.N.Y. 1979) in a situation involving "common law fraud . . . for reason of public policy an intentional tortfeasor may not escape liability for his conduct by totally shifting it", even if the shift is to a joint tortfeasor that has always been and remains the law of common law jurisdictions such as New York wrong doing, a necessity in terms of punishment and to effectively deter such conduct.

Epstein v. Haas Securities Corp., 731 F. Supp. 1166, 1187 (S.D.N.Y.(1990). Common law jurisdictions have a long unbroken history which forbids private indemnity for reckless and willful misstatements, see generally, *Globus v. Law Research Service Inc., 418 F. 2d. 1276, 1288 (2d Cir 1969)* Cer. denied, 397 U.S. 913 (1970) invalidating private indemnity agreement.

Generally, anyone who engages in a fraudulent scheme forfeits all right to protection, either at law or in equity. *Kansas City Operating Corp. v. Darwood, 278 F. 2d. 345, 357 (8th Cir. 1960)*. The principal of public policy is this: Ex Dolo Mala Non Oritur Oactio, (out of fraud no action arises.....) It is upon that ground the court goes; not for

sake of the defendant, but because they will not lend their aid to such a plaintiff. *Holman v. Johnson, 98 Eng. Rep. 1120, 1121, (1775).*

Illinois and certainly common law jurisdictions have strong fundamental public policies against indemnity for intentional wrong doings and fraud. Those states consider the obligation that an intentional tortfeasor or perpetrator of fraud bear the prospect of liability for his wrongdoing, a necessity in terms of punishment and to effectively deter such conduct.

Without the law there can be no freedom or due process of law.

The Courts in Arbitration cases recognized the power of the Court to recommit matter to the Arbitrators where the award is incomplete or matters submitted are not passed upon. In *Kline V. Catara (1844, CC Mass) F Cas No. 7869* it was shown that there were matters before the arbitrators on which they did not award although they intended to do so, and the Court said that in such case the award ought not be accepted.

Arbitrator Gilberto M. Galicia, Case No. 81 W.C. 595 states clearly in his arbitration award paragraph six that he intended to rule on necessary first aid, medical, surgical and hospital services but he never addressed the issue of medical services or awarded any medical benefits.

CONCLUSION

1. Arbitrator Barbara Sherman heard the testimony and observed the witnesses in the arbitration proceedings but did not write her decision.

2. Arbitrator Gilberto M. Galicia was prejudicial to petition. *Case 81 W.A. 595*

3. Industrial Commission of Illinois obstructed Justice (withholding evidence). *Case 81 W.C. 595*

4. Commissioner's Richard Gilgis and Douglas Holland, officers of the court wrote false statements in their Decision and Opinion on Review, October 20, 1987.

5. The Circuit Court of Cook County Illinois wrote in their Decisions that Arbitrator Galicia's professional misconduct was improper and prejudicial to petitioner, but the court did nothing to hold him accountable for his improper prejudicial misconduct that caused petitioner great harm, hardship and sixteen year of litigation.

6. The Appellate Court of Illinois wrote eleven incorrect statements of facts in their *order, 1-91-1365 W.C.* That came right out of the respondent's Brief and Argument.

7. With all due respect, Judge Alan L. Stouder who wrote the *Appellate Court of Illinois Order 1-91-1365 W.C.* was blind and could not read or review any part of my Worker's Compensation court records. The records were not transcribed to braille.

8. The Supreme Court of Illinois should have granted Naomi Treece's motion for supervisory order based upon the following.

9. *The cumulative, misrepresentations of the facts, lies and frauds perpetrated upon the judicial system as a whole and petitioner are violative of the provisions of the Fourteenth Amendment to the United States Constitution and analogues in the Illinois Constitution.*

The award of arbitrators appointed under a mutual mistake as to the legal necessity of an arbitration is not binding, *Peisch v. Ware, 4 Cranch 347 2L. Ed. 643.*

The United States Arbitration Act of 1947 (9 USC § 10 (AD) provides grounds for vacating arbitration awards 20 ALR Fed, 295 power of court to resubmit matter to arbitrators for correction or clarification from arbitration award 37 ALR 3d. 200.

An arbitration award will be vacated where the rights of the party were substantially prejudiced by misconduct of a neutral arbitrator, (Code of Civ. Proc. § 1286.2 Sub. d.(C).

Three Judicial Courts wrote very clearly in their Decisions and Order that Arbitrator Gilberto M. Galicia was prejudicial to (Naomi Treece) petitioner.

Eight of the eleven decisions were for Petitioner (Naomi Treece).

Two of the three decisions for Respondent were vacated.

Petitioner respectfully requests this court vacate Arbitrator Gilberto M. Galicia's decision, Case No. 81 W.C. 595, and

Vacate the Appellate Court of Illinois Order 1-91-1365 W.C.

For all the foregoing reasons, Naomi Treece's Petition for a Writ of Certiorari should be granted.

Dated: December 8, 1997.

Respectfully submitted:

Naomi Treece

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